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FISCAL IMPACT STATEMENT

LS 6805

BILL NUMBER: SB 384

NOTE PREPARED: Dec 28, 2014

BILL AMENDED:

SUBJECT: Taxation of Electronic Cigarettes.

FIRST AUTHOR: Sen. Hershman

FIRST SPONSOR:

BILL STATUS: As Introduced

FUNDS AFFECTED: ☒ **GENERAL**
☒ **DEDICATED**
☐ **FEDERAL**

IMPACT: State & Local

Summary of Legislation: This bill imposes a tax on electronic cigarettes (e-cigarettes) at a rate of \$0.0083 per milligram (mg) of nicotine per one milliliter (ml) of consumable product. It deposits the revenue from the tax in the state General Fund.

Effective Date: July 1, 2015.

Explanation of State Expenditures: This bill would increase administrative and enforcement costs of the Department of State Revenue (DOR). It requires the DOR to collect a new tax, known as the Electronic Cigarette Tax, on the liquid nicotine solution used in vapor products. (The term “vapor product” includes e-cigarettes.) The DOR may be required to create new rules and forms and update computer software to implement this tax.

Explanation of State Revenues: *Summary-* The bill states that the E-Cigarette Tax is equal to \$0.0083 per mg of nicotine per ml of liquid solution used in vapor products. The bill also specifies that for purposes of Sales and Use Tax imposed on e-cigarettes, the sales price subject to tax includes the amount of E-Cigarette Tax paid. These provisions could increase state revenue by a total of \$2.8 M to \$8.4 M in FY 2016 and \$3.0 M to \$9.0 M in FY 2017. The majority of this revenue is attributable to the E-Cigarette Tax.

Revenue from the E-Cigarette Tax would be deposited in the state General Fund. The majority of Sales Tax revenue is also deposited in the General Fund (98.848%), and a smaller portion is distributed to the Motor Vehicle Highway Account (1%), the Commuter Rail Service Fund (0.123%), and the Industrial Rail Service Fund (0.029%). The table below shows the estimated increase in revenue from the E-Cigarette Tax and Sales Tax for FY 2016 and FY 2017. The estimates for FY 2016 assume that the DOR will collect E-Cigarette Tax

revenue for the full fiscal year.

Revenue Source	Lower Limit Estimate (in millions)		Upper Limit Estimate (in millions)	
	FY 2016	FY 2017	FY 2016	FY 2017
E-Cigarette Tax	\$2.649	\$2.829	\$7.825	\$8.395
Sales Tax	\$0.187	\$0.199	\$0.560	\$0.597
Total	\$2.836	\$3.028	\$8.385	\$8.992

Additional Information- The bill defines a “vapor product” as a noncombustible product containing nicotine, such as an e-cigarette, that employs a mechanical heating element, battery, or electronic circuit, regardless of shape or size, that can be used to produce vapor from a liquid nicotine solution.

Nicotine content in the liquid solution varies. For example, some types of solutions contain no nicotine, while others may contain 48 mg of nicotine per ml. The most popular nicotine concentrations are likely between 6 mg/ml and 18 mg/ml. The lower limit estimate assumes that all liquid solution sold in Indiana is 6 mg/ml, meaning that the tax per ml would be about \$0.05. The upper limit estimate assumes that all liquid solution is 18 mg/ml, with a tax rate around \$0.15 per ml. The estimates could be either higher or lower if Indiana consumers tend to purchase liquid solutions with very high or very low nicotine concentrations.

Published information regarding the volume of liquid solution for vapor products sold in Indiana is not currently available. It is assumed that about 2 billion ml of liquid solution is sold in the U.S. each year. A portion of that amount is allocated to Indiana based on the state’s smoking rate compared to the national smoking rate.

The revenue estimates are also adjusted downward to account for any decrease in demand for vapor products that may occur as a result of the increase in price because of the tax.

Explanation of Local Expenditures:

Explanation of Local Revenues: The bill would not have a significant impact on local revenues. However, local revenues could increase to the extent that a local unit receives Sales and Use Tax revenue through distributions from the Motor Vehicle Highway Account, Commuter Rail Service Fund, or Industrial Rail Service Fund.

State Agencies Affected: DOR.

Local Agencies Affected:

Information Sources: Centers for Disease Control and Prevention, Behavioral Risk Factor Surveillance System, 2012. U.S. Census Bureau, American Community Survey, 2013. “Selling Poison by the Barrel: Liquid Nicotine for E-Cigarettes”, *The New York Times*, March 23, 2014. Legislative Fiscal Note for North Carolina House Bill 1050, 2013 session.

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